

ANALYSIS OF AMENDED BILL

Author: Machado Analyst: Deborah Barrett Bill Number: SB 158
 Related Bills: See Legislative History Telephone: 845-4301 Amended Date: 06-14-05
 Attorney: Patrick Kusiak Sponsor: _____

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| SUBJECT: | Revisions to Uniform Statutory Power of Attorney Form |
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SUMMARY

This bill would remove the social security number from the Uniform Statutory Power of Attorney Form.

SUMMARY OF AMENDMENTS

The June 14, 2005, amendments removed requirements relating to an acknowledgement by a notary public of the signature on an executed Uniform Statutory Power of Attorney Form, including identification alternatives. This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to protect individuals from identity theft.

EFFECTIVE/OPERATIVE DATE

This bill would become effective on January 1, 2006, and would be operative as of that same date.

POSITION

Pending

ANALYSISSTATE LAW

Current state law permits a person to appoint another as his or her attorney-in-fact or agent to act in his or her stead in legal matters. The appointment must meet specified requirements and must be executed according to a prescribed procedure.

Existing law provides for a Uniform Statutory Form Power of Attorney that a person may use to appoint another person as his or her attorney-in-fact. The form provides a space and line for the social security number of the person executing the power of attorney. This Uniform Statutory Form Power of Attorney is most commonly used for real property matters but can be used to appoint a representative to address an individual's income tax issues with the department.

Board Position:

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| _____ SA | _____ O | _____ NAR |
| _____ N | _____ OUA | <u> X </u> PENDING |

Department Director

Will C. Bush

Date

08/31/05

THIS BILL

This bill would eliminate the line for an individual's social security number for the person executing the Uniform Statutory Power of Attorney Form.

IMPLEMENTATION CONSIDERATIONS

Implementation of this bill would not significantly impact the department's programs or operations. This bill would revise only the Uniform Statutory Power of Attorney Form, while the department primarily uses the FTB or IRS power of attorney forms, neither of which is affected by this bill.

LEGISLATIVE HISTORY

SB 25 (Bowen, Ch. 907, Stats. 2003) placed restrictions on the use of social security numbers by businesses and state agencies.

SB 1614 (Speier, Ch. 712, Stats. 2002) eliminated public access to social security numbers of a decedent formerly found on death certificates filed in the county recorder's office.

SB 1907 (Campbell, Ch. 307, Stats. 1994) reorganized power of attorney provisions scattered throughout various code sections.

Program Background

The Franchise Tax Board currently makes available to taxpayers its own power of attorney form to allow a taxpayer to authorize another individual to represent the taxpayer in a matter before FTB or to authorize receipt of confidential tax information about the taxpayer. The IRS also makes a power of attorney form available for similar purposes, which the department will accept. Both FTB and IRS power of attorney forms contain a line for a taxpayer's social security number. Neither of these forms is required to be recorded in the county recorder's office as is required for a power of attorney used in a real estate transaction. Consequently, the FTB and IRS forms do not become public, although these forms could be notarized and recorded by a taxpayer.

OTHER STATES' INFORMATION

Laws from the states of *Illinois, Michigan, Massachusetts, Minnesota, Florida* and *New York* were reviewed due to their similarities to California's economy, business entity types, and tax laws. The states reviewed accept power of attorney forms as authorization to release confidential information to third parties. Each of these state's power of attorney forms include a taxpayer's social security number or federal identification number as required information.

FISCAL IMPACT

The provisions of this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

The provisions of this bill would not impact the state income tax revenues.

LEGISLATIVE STAFF CONTACT

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